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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL ARBITRATION APPLICATION (L.) NO.90 OF 2019

M/s.Maans Housing Development & Anr.	..Applicants
Vs.	
Kandivali Riddhi Co-operative Hsg.Soc. Ltd.	..Respondent

**WITH
COMMERCIAL ARBITRATION PETITION (L.) NO.196 OF 2019**

M/s.Maans Housing Development & Anr.	..Petitioners
Vs.	
Kandivali Riddhi Co-operative Hsg.Soc. Ltd.	..Respondent

Mr.Piyush Shah with Mr.Dishang Shah for Applicants/Petitioners.
Mr.Anilkumar Patil for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 26th MARCH, 2019

P.C.:

These are two proceedings. Commercial Arbitration Application (1.) No.90 of 2019 is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, "the ACA") whereby the applicants have prayed for appointment of an arbitral tribunal to adjudicate the disputes and differences arising under the development agreement dated 16 August 2013. Commercial Arbitration Petition (L) No.196 of 2019 is filed under Section 9 of the ACA whereby the petitioners have prayed for interim reliefs pending the arbitral proceedings.

2. It is not in dispute that there is an arbitration agreement between the parties as contained in paragraph 40 of the development agreement dated 16 August 2013. It is also not in dispute that the arbitration agreement was invoked on behalf of the applicants/petitioners.

3. After both the matters were heard for some time, learned Counsel for the parties on instructions of their respective clients are agreeable that the disputes and differences between the parties be referred for arbitration of an arbitral tribunal. It is agreed that the petition filed under Section 9 be permitted to be treated as an application under Section 17 to be adjudicated by the arbitral tribunal.

4. In view of the above consensus between the parties, these proceedings are required to be disposed of. Hence the following order:-

ORDER

- (i) Mr.Minoo Siodia, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the development agreement dated 16 August 2013;
- (ii) The learned prospective sole arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application

with a copy to be forwarded to both the parties;

(iii) Commercial Arbitration Petition (L.) No.196 of 2019 filed under Section 9 of the ACA with pleadings, if any, is permitted to be converted into an application under Section 17 of the ACA to be adjudicated by the arbitral tribunal. The parties are also permitted to file any additional pleadings, if so necessary;

(iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(v) All contentions of the parties including on merits of the disputes are expressly kept open;

(vi) Learned arbitrator shall endeavor to adjudicate the Section 17 application as expeditiously as possible and preferably within a period of two months from the date of filing of the Section 17 Application;

(vii) The above application under Section 11 of the ACA as also Section 9 petition are disposed of in the above terms. No costs.

(viii) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: Mistry Mansion, 2nd Floor, 107, Mahatma Gandhi
Road, Fort, Mumbai - 400 001.

Contact No. 9820062104 / 022-66350773.

[G.S. KULKARNI, J.]